

**SULTAN CITY COUNCIL  
AGENDA ITEM COVER SHEET**

---

ITEM NO: C-16

DATE: December 13, 2007

SUBJECT: Amendment #1 to the Land Lease Agreement for Cascade View Drive with Snohomish County

CONTACT PERSON: Deborah Knight, City Administrator *D. Knight*

**ISSUE:**

The issue before the Council is to authorize the Mayor to extend the lease agreement (Attachment A) with Snohomish County through March 31, 2008.

The lease will allow the County to use a portion of the City's property adjacent to the County transfer station on Cascade View Dr. for a pilot project to recycle large woody debris.

**STAFF RECOMMENDATION:**

1. Review Amendment #1 to the Land Lease for Cascade View Drive to use the City property adjacent to the Sultan Transfer Station as a collection site for yard waste recycling.
2. Authorize the Mayor to sign the Amendment #1 to the Land Lease for Cascade View Drive with Snohomish County.

**SUMMARY:**

Snohomish County Solid Waste is requesting a three-month extension of the short-term lease of City owned property adjacent to the transfer station to continue temporary collection of residential wood debris.

The collection site is open to the public on weekends, and is staffed by Solid Waste employees.

To encourage use of the recycling service, the Snohomish County Solid Waste Division offered vouchers (one per household in the Sultan area) for free recycling of one load to be used during the three-month pilot. The pilot project has been successful, and the County would like to exercise its option to extend the term of the land lease through March 31, 2008. The lease agreement allows for two additional extensions with the City's approval.

## Proposed Lease Agreement

The property under consideration is all of tax parcel number 28083300302700 which is the property just to the south of the existing transfer station, and a 30 foot by 560 foot section of the adjacent parcel to the south, which is basically the existing roadway. The proposed lease does not include the cemetery ball field property.

The term of the lease is three months commencing on January 1, 2008 and ending at midnight on March 31, 2007. In addition, the City and the County may mutually extend the term of the lease by amendment for two additional consecutive 3-month terms.

The County agrees to keep the site and access areas in a neat and clean condition. Upon termination of the lease, the County will leave the site in as good a state and condition as reasonable use and wear and tear. In the event the site is damaged by the County, the County will repair the damage at its sole expense. Repair work would begin immediately and continue until complete within 30 days of termination.

The City required a SEPA (State Environmental Policy Act) checklist for the pilot project. The County prepared the application (SEPA checklist and site plan). The City did not receive any comments regarding the proposed project. The City required mitigation. For example, the City restricted operations on holidays to limit impacts to cemetery visitors. The City also required proper signage to direct traffic leaving the site to the east. On-site grinding is not allowed during funerals. The site area is temporarily fenced to ensure public safety.

A long-term project will require a second SEPA checklist.

### BACKGROUND:

Throughout the State of Washington, burning wood debris is prohibited within urban growth areas. This includes Sultan. Temporary burn bans (fire safety in the summer, and air-quality typically in the fall and winter) require residents outside the City limits to seek alternatives disposal methods.

Enforcement of this regulation is lax because Sultan area residents have not had reasonable alternatives available, like the proposed recycling facility. Hauling five yards of solid waste to the transfer station costs residents about \$40. However, beginning this fall, the Clear Air Agency will increase its enforcement efforts and issue fines for illegal burn activities.

The Fire District has been working with Snohomish County Solid Waste and the Puget Sound Clean Air Agency to implement alternatives to burning. These agencies approached the City of Sultan to assist with recycling options for residents to discourage residents from burning their yard debris.

The Planning and Public Works Council Subcommittee discussed the issue at its May 17, 2007 meeting. Fire Chief Halverson and representatives from the Puget Sound Clean Air Agency and Snohomish County Solid Waste were on hand to answer questions. The Subcommittee directed staff to bring the issue to the City Council for consideration.

The City Council discussed the issue at its June 28, 2007 meeting. Staff was directed to bring back a proposal for the pilot program for the Council's consideration. Council approved the lease agreement (Attachment B) and authorized the Mayor to sign the agreement at its August 23, 2007 meeting.

#### DISCUSSION:

This is an extension of the existing lease to continue to provide woody debris recycling in the City of Sultan and surrounding areas.

#### FISCAL IMPACT:

##### Project Funding

There are no direct costs to the City of Sultan to provide this service to Sultan residents. The City did not have any immediate plans to use the site. The only indirect costs for the pilot project are staff time to monitor the pilot project.

#### ALTERNATIVES:

1. Review Amendment #1 to the Land Lease for Cascade View Drive to use the City property adjacent to the Sultan Transfer Station as a collection site for yard waste recycling, and authorize the Mayor to sign the lease extension agreement with Snohomish County.
2. Review Amendment #1 to the Land Lease for Cascade View Drive to use the City property adjacent to the Sultan Transfer Station as a collection site for yard waste recycling, and **do not** authorize the Mayor to sign the lease extension agreement with Snohomish County. Direct staff to areas of concern.

#### RECOMMENDED ACTION:

1. Review Amendment #1 to the Land Lease for Cascade View Drive to use the City property adjacent to the Sultan Transfer Station as a collection site for yard waste recycling.
2. Authorize the Mayor to sign Amendment #1 to the Land Lease for Cascade View Drive with Snohomish County.

RECOMMENDED MOTION

AUTHORIZE THE MAYOR TO SIGN AMENDMENT #1 TO THE LAND LEASE FOR CASCADE VIEW DRIVE WITH SNOHOMISH COUNTY.

ATTACHMENTS:

Attachment A – Amendment #1 to the Land Lease for Cascade View Drive  
Attachment B – Land Lease Cascade View Drive, Sultan WA

---

COUNCIL ACTION:

DATE:



**Snohomish County**  
**Facilities Management**

RECEIVED  
NOV 28 2007  
BY: .....

**Aaron Reardon**  
County Executive

(425) 388-3221  
FAX (425) 388-3791

M/S #404  
3000 Rockefeller Avenue  
Everett, WA 98201-4046

Attachment A

November 21, 2007

Deborah Knight  
City Administrator  
PO Box 1199  
Sultan, WA 98294

Re: Land Lease – Snohomish County Cascade View Drive

Dear Deborah:

This letter serves as notice to the City of Sultan that Snohomish County would like to exercise their option to extend the term of the land lease for property located on Cascade View Drive, Sultan, WA through March 31, 2008. This land lease is for a portion of land identified under tax parcel number 27080400200100.

An amendment to the lease will be forwarded to you as soon as possible for signature by the city.

If you have any questions, please feel free to contact me at 425-388-3400 or by email at [cherie.hutchins@co.snohomish.wa.us](mailto:cherie.hutchins@co.snohomish.wa.us).

Sincerely,

Cherie Hutchins  
Snohomish County Property Management

A-1

After Recording Return To:  
Property Management  
3000 Rockefeller Avenue M/S #404  
Everett, WA 98201

**Amendment #1  
To Land Lease  
Cascade View Drive, Sultan, WA**

**THIS AMENDMENT #1** to the Land Lease, Cascade View Drive, Sultan, WA 98294 is made by and between **Snohomish County, a municipal corporation and political subdivision of the State of Washington** hereinafter referred to as "County", and **City of Sultan, a municipal corporation of the State of Washington**, hereinafter referred to as "City", for the purpose of amending the Land Lease with a term of October 1, 2007 to December 31, 2007, signed by the Executive on September 27, 2007, recorded at Snohomish County, Auditor's File No. 200710010028. This Amendment #1 shall be effective as of January 1, 2008.

**WHEREAS**, the County wishes to extend the lease term for one, three-month term to commence January 1, 2008 to March 31, 2008, to allow for continued operation of a wood waste collection site; and

**WHEREAS**, the Landlord has agreed to extend the lease the additional three months through March 31, 2008, and

**WHEREAS**, the lease during any option term shall be on the same terms and conditions as the initial term.

**NOW, THEREFORE**, the parties agree to amend the lease as follows:

1. Paragraph 2 of the original lease agreement is hereby amended to read:

2. **TERM.** This lease shall be effective for a term of six (6) months, commencing October 1, 2007, and ending at midnight March 31, 2008.

In addition, the County may extend the term of this lease for two (2) consecutive three-month option term(s). The County shall notify Landlord of the County's intention to exercise an option term no later than one month before the expiration of the current term. County's failure to exercise any option to extend will nullify the remaining options to extend. The lease during any option term shall be on the same terms and conditions as the initial term.

Any extension shall be memorialized in writing by an amendment to this lease. It is agreed by the approval of this Lease, that the Public Works Director has the authority to accept any extensions authorized by this lease and to sign said amendments on behalf of Snohomish County.

If the term of this lease extends beyond the current County fiscal year, the obligations of the County in succeeding fiscal years are contingent upon legislative appropriation for the specific purpose of funding this lease in accordance with law. In the event that funds are not so appropriated, the County may terminate this lease without penalty or further obligation.

2. All remaining paragraphs shall remain the same and all terms and conditions of the lease and preceding amendments shall remain in full force and effect.

**IN WITNESS WHEREOF** the parties have affixed their signatures and execution thereof.

**City of Sultan:**

\_\_\_\_\_  
Mayor Date

STATE OF WASHINGTON )  
 )ss.  
COUNTY OF SNOHOMISH )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath acknowledged that he was authorized to execute the instrument, and acknowledged it as the Mayor of the CITY OF SULTAN to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2007.

NOTARY PUBLIC in and for the State of  
Washington residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_



After Recording Return To:  
Snohomish County Property Management  
3000 Rockefeller Avenue M/S 404  
Everett, WA 98201

Attachment B

**LAND LEASE**  
**Cascade View Drive, Sultan, WA**

This Lease is made this \_\_\_\_\_ day of \_\_\_\_\_, 2007 between CITY OF SULTAN, a municipal corporation of the State of Washington, hereafter referred to as the "City", and SNOHOMISH COUNTY, a municipal corporation and political subdivision of the State of Washington, hereafter referred to as the "County".

**WITNESSETH:**

**1. PREMISES.** The City does hereby lease to the County, and the County does hereby lease from the City those certain premises identified as all of tax parcel number 28083300302700 described as follows:

Section 33, Township 28 North, Range 8 East, W.M. described as follows: The South 135 feet of the following described property: That portion of the Southeast quarter of the Southwest quarter lying Southeasterly of County Road.  
Situate in the County of Snohomish, State of Washington.

and a portion of tax parcel number 27080400200100 described as follows:

The Northerly 30 feet of the Westerly 560 feet of the following described property: Section 4, Township 27 North, Range 8 East, W.M., described as follows: Beginning at a point where the West bank of Sprague Slough intersects the North boundary line of said section, thence West to the East boundary line of County Road, thence South on the East boundary line of County Road to the North boundary of state hatchery land, thence East on the North boundary of state hatchery land to the West bank of Sprague Slough, thence Northerly along bank of slough to the point of beginning.  
Situate in the County of Snohomish, State of Washington.

Said premises containing approximately 1.75 acres (the "Premises").

**2. TERM.** This lease shall be effective for a term of three (3) months, commencing October 1, 2007, and ending at midnight December 31, 2007.

In addition, the County may extend the term of this lease for three (3) consecutive three-month option term(s). The County shall notify Landlord of the County's intention to exercise an option term no later than one month before the expiration of the current term. County's failure to exercise any option to extend will nullify the remaining options to extend. The lease during any option term shall be on the same terms and conditions as the initial term.

Any extension shall be memorialized in writing by an amendment to this lease. It is agreed by the approval of this Lease, that the Public Works Director has the authority to accept any extensions authorized by this lease and to sign said amendments on behalf of Snohomish County.

B-1

If the term of this lease extends beyond the current County fiscal year, the obligations of the County in succeeding fiscal years are contingent upon legislative appropriation for the specific purpose of funding this lease in accordance with law. In the event that funds are not so appropriated, the County may terminate this lease without penalty or further obligation.

**3. RENT.** In lieu of rent the County will provide the citizens of the City of Sultan in addition to East Snohomish County residents the ability to utilize the Wood Waste Collection Services provided by the County at the Premises.

**4. USE.** The County will use the premises exclusively for the operation of wood waste collection services and for no other purpose without prior consent of the City. The operations for wood waste collection will include compilation of wood waste materials including but not limited to stumps, branches, unpainted lumber, and wood pallets. Some of the equipment and machinery required to provide these services and for use on-site will be backhoes for stacking of debris, tub grinders for grinding wood waste materials, containers to stockpile ground wood waste materials, large trucks, motor vehicles, and similar equipment and materials. Any equipment, machinery, or materials placed or installed on the Premises by the County shall remain the property of the County. The County may construct temporary wall structures on-site to use for the purposes of compacting wood debris. The County will have employees and contractors on-site during the term of the lease to facilitate the operation of wood waste collection services.

The County agrees that in the operation of the services to be conducted on the Premises and in any occupancy thereof, the County will comply with all applicable federal, state and local laws, rules and regulations.

The County shall keep the Premises and access areas in a neat and clean condition. Upon termination of the Lease, the County shall quit and surrender the Premises in as good a state and condition as reasonable use and wear and tear thereof permit, damage by the elements or other actions not caused by the County, its employees, agents, customers or invitees excepted.

**5. DAMAGE.** In the event that any damage of any kind is caused by County in the course of performing work authorized by this Lease or the Right of Entry Permit between the parties with a term of September 1, 2007 through September 30, 2007, the County will repair the damage at its sole cost and expense. Repair work shall begin without delay and continue without interruption until completed and within thirty (30) days of termination of this Lease.

**6. LIENS.** In the event the Premises shall at any time during the term of this Lease become subject to any lawsuit brought to enforce a lien or any statement or claim of lien filed to enforce a lien from resulting from the furnishing of materials or labor to the County on the Premises and contracted for or agreed to by the County, the County may contest such lien by legal proceedings but shall, in the event, cause such lien, at its sole cost, to be discharged within thirty (30) days after notice thereof by the substitution thereof of an appropriate lien release bond, by posting of adequate security for payment thereof (including all expenses incident thereto), or by such other method as shall be reasonably satisfactory to the City.

**7. HOLD HARMLESS.** The County shall assume the risk of, and be liable for all damage, loss, cost and expense of any party arising out of the County's use of the Premises, or actions or omissions of the County's agents, employees, or volunteers, except that solely caused by the negligence or willful misconduct of the City's employees acting within the scope of their employment. The County shall protect, save harmless, indemnify, and defend, at its own

expense, the City, its elected and appointed officials, officers, employees and agents from any loss or claim for damages of any nature whatsoever arising out of the performance of this Lease or use of the Premises, including claims by third parties or the County's employees to which it would otherwise be immune under Title 51 RCW or other law, except for those damages solely caused by the negligence or willful misconduct of the City, its elected and appointed officials, officers, employees or agents. The County's duties shall include, but not be limited to, investigating, adjusting and defending all claims alleging loss as described within this paragraph.

**8. INSURANCE.** Snohomish County self-insures \$1,000,000 of its common law and assumed liability for bodily injury and/or property damage to third parties in connection with accidents arising out of Snohomish County's operations. The limits of coverage meet or exceed limits typically required and the county's excess liability insurance covers all operations and applies in addition to the self-insurance program. The County's self-insurance will respond to the same extent as if an insurance policy had been purchased naming the City as an additional insured.

**9. HAZARDOUS WASTE.** To the best of the City's knowledge, the Premises is not in violation of any law, ordinance, rule or regulation relating to the environmental conditions thereon. Moreover, to the best of the City's knowledge, there is no hazardous waste or other substance, including but not limited to those that would be a hazardous waste, material or substance, toxic substance, gas or pollutant, as defined under the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 *et. seq.*, the Washington Model Toxics Control Act, RCW Ch. 70.105D, RCW Ch. 70.95, and the regulations promulgated thereunder or under any applicable local or state environmental ordinance, statute, law, rule or regulation ("Hazardous Substances"), on or about the Premises or on any parcels of land which abut the Premises. Further, to the best of the City's knowledge: (i) there has been no release, spill, leak, discharge, emission, leak or disposal, (ii) there are no substances or conditions, in or on the Premises or any other parcels of land which may affect the Premises or use thereof that may support a claim or cause of action under any federal, state or local environmental statute, regulation, ordinance or other environmental regulatory requirements and (iii) there is no asbestos, PCBs or underground storage tanks located on the Premises or which have been removed therefrom.

The City agrees to indemnify, hold harmless and defend the County, its appointed officials, officers, employees, agents and representatives, from and against any and all claims, actions, suits, liability, loss, cost, expenses and damages of any nature whatsoever, including costs and attorneys' fees, which are caused by or arise out of (i) the existence of Hazardous Substances on the Premises or the migration of Hazardous Substances originally released or deposited on the Premises onto other parcels of land; (ii) the City's failure or insufficient compliance with any federal, state or local laws applicable to Hazardous Substances; or (iii) any claim, in law or equity, brought by any third party or the City's own officials, officers, employees, agents or representatives alleging any cause of action relating to the existence of Hazardous Substances on the Premises or any migration of Hazardous Substances originally released or deposited on the Premises onto other parcels of land, and, with respect to (i), (ii) and (iii), that existed, or in the case of migration commenced due to a condition that existed, as of or prior to the commencement of this Lease.

**10. SUBLETTING AND ASSIGNMENT.** The County shall not sublet the whole or any part of said Premises, nor assign this Lease, or any part thereof, without the written consent of the City, which consent shall not be unreasonably withheld. If consent is once given by the

City to the assignment of this lease, or any interest therein, the City shall not be barred from afterward refusing to consent to any further assignment. This Lease shall not be assignable by operation of law.

Any assignment made by the County shall not become effective until the assignee, in writing, shall assume this Lease and agree to perform and be bound by all of the obligations of the County accruing under this Lease from and after the date of such assignment. In the event of such an assignment and assumption, the County shall remain bound by all obligations of the County accruing under this Lease. Consent to one assignment or subletting shall not be deemed consent to any subsequent assignment or subletting.

**11. NOTICES.** All notices to be given by the parties hereto shall be in writing and may either be served personally or may be deposited in the United States mail, postage prepaid, by either registered or certified mail or by facsimile, and if to be given to the City, shall be addressed or faxed to the City at:

**City of Sultan**  
**319 Main Street, Suite 200**  
**PO Box 1199**  
**Sultan, WA 98294**  
**Attn: Deborah Knight, City Administrator**  
**Phone: 360-793-7358**  
**Fax: 360-793-3344**  
**Email: Deborah.knight@ci.sultan.wa.us**

or if to be given the County, shall be addressed to the County at:

**Snohomish County**  
**3000 Rockefeller Avenue M/S 404**  
**Everett, WA 98201**  
**Attn: Cherie Hutchins**  
**Phone: 425-388-3400**  
**Fax: 425-388-3828**  
**Email: cherie.hutchins@co.snohomish.wa.us**

All notices shall be effective upon the earlier of personal delivery or two (2) days after being mailed.

**12. SIGNS.** The County shall have the right to place identifying and instructional signage on and about the Premises with the City's consent, which consent shall not be unreasonably withheld, subject to compliance with all applicable laws.

**13. DEFAULT.** Upon either party's failure to observe or perform any term or condition of this Lease, that failure having continued for fifteen (15) days after the non-defaulting party gives written notice to cure such failure to the other party, such party shall be deemed in default. In the event of default and upon fifteen (15) days written notice of termination to the party in default, the non-defaulting party may terminate this Lease.

**14. GOVERNING LAW AND VENUE.** This Lease shall be governed by the laws of the State of Washington and any lawsuit regarding this Lease must be brought in Snohomish County, Washington.



STATE OF WASHINGTON )  
 )ss.  
COUNTY OF SNOHOMISH )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath acknowledged that he was authorized to execute the instrument, and acknowledged it as the Mayor of the CITY OF SULTAN to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF SNOHOMISH )

On this \_\_\_\_ day of \_\_\_\_\_, 2007, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_ of Snohomish County and acknowledged to me the said instrument to be for the uses and purposes therein mentioned, and signed said instrument on behalf of Snohomish County as its free and voluntary act and deed.

WITNESS my hand and official seal hereto affixed the day and year first above written.

\_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Deputy Prosecuting Attorney

B.6